

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

HARRY PLOSS, *Individually and on Behalf of All  
Others Similarly Situated*,

Plaintiff,

07 cv. 10937 (SWK)

v.

BANKATLANITC BANCORP INC., JAMES A.  
WHITE, VALERIE C. TOALSON, JARETT S.  
LEVAN and ALAN B. LEVAN

Defendants.

---

**MOTION OF OTIS BROWN AND DONNA BROWN FOR CONSOLIDATION , TO BE  
APPOINTED LEAD PLAINTIFF AND FOR APPROVAL OF LEAD PLAINTIFFS'  
SELECTION OF LEAD COUNSEL**

PLEASE TAKE NOTICE that class members Otis Brown and Donna Brown by their counsel, will hereby move this Court on January 21, 2008 at 9:30 AM, or on a date and at such time as may be designated by the Court, in front of the Honorable Kram, for an Order: (i) consolidating all Related Actions; (ii) appointing Otis Brown and Donna Brown as lead plaintiffs; (iii) approving the selection of the law firm of Brodsky and Smith, LLC to serve as Lead Counsel; and (iv) granting such other and further relief as the Court may deem just and proper. In support of this motion, Otis Brown and Donna Brown submit herewith a Memorandum of Law and Declaration of Evan J. Smith.

Dated: December 28, 2007

Respectfully submitted,

BRODSKY & SMITH, LLC

By: /s/ Evan J. Smith, Esquire (ES3254)

Evan J. Smith (ES3254)

240 Mineola Blvd.

Mineola, NY 11501

Telephone: (516) 741-4977

Facsimile: (516) 741-0626

*[Proposed] Lead Counsel*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

HARRY PLOSS, *Individually and on Behalf of All  
Others Similarly Situated*,

Plaintiff,

07 cv 10937 (SWK)

v.

BANKATLANITC BANCORP INC., JAMES A.  
WHITE, VALERIE C. TOALSON, JARETT S.  
LEVAN and ALAN B. LEVAN

Defendants.

---

**[PROPOSED] ORDER APPOINTING LEAD PLAINTIFFS AND LEAD PLAINTIFFS'  
SELECTION OF COUNSEL.**

Having considered the motion of class members Otis Brown and Donna Brown (collectively, the “Movants”) to be appointed Lead Plaintiffs and for approval of Lead Plaintiffs’ selection of Lead Counsel, the memorandum of law in support thereof, the declaration of Evan J. Smith in support of that motion, and good cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The motion is granted.
2. This Order shall apply to this action and to each case that relates to the same subject matter that is subsequently filed in this Court or is transferred to this Court and is consolidated with this action.
3. Every pleading in this action shall now have the following caption:

---

IN RE BANKATLANTIC BANCORP INC. :  
SECURITIES LITIGATION :

---

Civil Action No. 1: 07-cv-10937 -SWK

4. Otis Brown and Donna Brown are appointed to serve as Lead Plaintiffs in the above-captioned action pursuant to 15 U.S.C. § 77z-4(a)(3)(B) and 15 U.S.C. § 78u-4(a)(3)(B).

5. The law firm of Brodsky & Smith, LLC is hereby approved as Lead Counsel for the Class. Lead Counsel shall provide general supervision of the activities of plaintiffs' counsel and shall have the following responsibilities and duties to perform or delegate as appropriate:

- a. To brief and argue motions;
- b. To initiate and conduct discovery, including, without limitation, coordination of discovery with defendants' counsel, the preparation of written interrogatories, requests for admissions, and requests for production of documents;
- c. To direct and coordinate the examination of witnesses in depositions;
- d. To act as spokesperson at pretrial conferences;
- e. To call and chair meetings of plaintiffs' counsel as appropriate or necessary from time to time;
- f. To initiate and conduct any settlement negotiations with counsel for defendants;
- g. To provide general coordination of the activities of plaintiffs' counsel and to delegate work responsibilities to selected counsel as may be required in such a manner as to lead to the orderly and efficient prosecution of this litigation and to avoid duplication or unproductive effort;
- h. To consult with and employ experts;

i. To receive and review periodic time reports of all attorneys on behalf of plaintiffs, to determine if the time is being spent appropriately and for the benefit of plaintiffs, and to determine and distribute plaintiffs' attorneys' fees; and

j. To perform such other duties as may be expressly authorized by further order of this Court.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
SHIRLEY WOHL KRAM,  
UNITED STATES DISTRICT JUDGE